

ADMINISTRATIVE DETENTION

§ 57.240 Detaining product.

Whenever any eggs subject to the Act are found by any authorized representative of the Secretary upon any premises, and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of the Act or the regulations in this part, or that they are in any other way in violation of the Act, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations in this part, such articles may be detained by such representative for a period not to exceed 20 days, as more fully provided in section 19 of the Act. A detention tag or other similar device shall be used to identify detained product, and the custodian or owner shall be given a written notice of such detention. Only authorized representatives of the Secretary shall affix or remove detention identification. The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of the Act, the regulations in this part, or other laws.

[63 FR 69968, 69971, Dec. 17, 1998]

APPEAL OF AN INSPECTION OR DECISION

§ 57.300 Who may request an appeal inspection or review of an inspector's decision.

Any appeal inspection may be requested by any interested party who is dissatisfied with the determination by an inspector of the class, quantity, or condition of any product, and a review may be requested by the operator of an official plant with respect to an inspector's decision or on any other matter related to inspection in the official plant.

§ 57.310 Where to file an appeal.

Any interested party who is not satisfied with the determination of the class, quantity, or condition of product which was inspected other than in an official plant may request an appeal in-

spection by filing such request with the Regional Director in the region where the product is located or with the Chief of the Grading Branch.

[63 FR 69971, Dec. 17, 1998]

§ 57.320 How to file an appeal.

The request for an appeal inspection or review of an inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the identity of the product, the decision which is questioned, and the reason(s) for requesting the appeal service. If such appeal request is based on the results stated on an official certificate, the original and all copies of the certificate available at the appeal inspection site shall be provided to the inspector assigned to make the appeal inspection.

§ 57.330 When an application for an appeal grading or inspection may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, or that the condition of the product has undergone a material change since the original grading or inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

§ 57.340 Who shall perform the appeal.

The assignment of the inspector(s) who will make the appeal inspection under § 57.310 shall be made by the Regional Director or the Chief of the Grading Branch, Poultry Division, Agricultural Marketing Service.

[63 FR 69968, 69971, Dec. 17, 1998]

§ 57.350 Procedures for selecting appeal samples.

(a) *Prohibition on movement of product.* Products shall not have been moved from the place where the inspection being appealed was performed and must